

**REMARKS**

Applicant thanks the Examiner for the careful consideration of this application. Claims 1-8, 11-18, and 20 are currently pending. Claims 1, 6-8, and 11-18 have been amended. Claims 9 and 10 have been canceled, without prejudice. Based on the foregoing amendments and the following remarks, the Applicant respectfully requests that the Examiner reconsider all outstanding rejections and that they be withdrawn.

**Rejections under 35 U.S.C. § 112**

The Office Action rejected claims 7, 15, and 16 under 35 U.S.C. § 112, second paragraph, for lacking antecedent basis for “radiation receiver.” Claim 7 has been amended to recite “second radiation receiver,” and claims 15 and 16 have been amended to recite “first radiation receiver.” The claims provide proper antecedent basis for the “first radiation receiver” and the “second radiation receiver.” Therefore, the Applicant respectfully requests that this rejection be withdrawn.

**Rejections under 35 U.S.C. § 103**

I. The Office Action rejected claims 1-4, 6-18, and 20 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,432,600 to Grollmund et al. in view of U.S. Patent No. 3,334,240 to Black. Claims 9 and 10 have been cancelled, without prejudice. Claims 1, 6, 17, and 18 are the independent claims. The Applicant respectfully traverses this rejection for at least two reasons.

**First**, no reasonable combination of Grollimund and Black discloses or suggests the specific locations of the first measuring device and the second measuring device on a filter tipping machine, as recited by amended claims 1, 6, 17, and 18. For example, no reasonable combination of Grollimund and Black discloses or suggests a second measuring device “located in and/or on [a] tipping machine at a position *downstream of the first measuring device* and *downstream of a tipping station* for wrapping the components with a tipping paper,” as claimed (emphasis added). The Office Action acknowledges on page 3 that Grollimund fails to disclose a “second measuring device,” and relies on Black for allegedly teaching a “second measuring device.” However, the “second measuring device” allegedly disclosed by Black is not “located . . . downstream of [a] first measuring device,” as claimed, nor is it “located . . . downstream of a tipping station,” as also claimed. In fact, Black’s measuring device is not even located in or on a filter tipping machine – which adds a filter to a pre-cut tobacco rod – but instead, is located in or on a filter *making* machine – which makes the filter itself. (See Black at 1:28-42 (emphasis added).) Thus, no reasonable combination of Grollimund and Black discloses or suggests a second measuring device “located in and/or on [a] tipping machine at a position downstream of the first measuring device and downstream of a tipping station for wrapping the components with a tipping paper,” as claimed.

**Second**, one of ordinary skill in the art would not have added the measuring device of Black to the filter tipping machine of Grollimund. The device of Black, which has its light source offset from the sensor, is only able to distinguish a segment transition from white to black, but is unable to distinguish a segment transition from black to white. (See Black at 3:17-20.) In

addition, shades between white and black are not distinguished. As a result, the device of Black can only detect the presence of a filter or rod shaped article. This, however, is already accomplished by the device disclosed in Grollimund. The addition of Black's light source and sensor to Grollimund would therefore be redundant and useless. Accordingly, one of ordinary skill in the art would not have combined Grollimund with Black as asserted by the Office Action.

The Applicant respectfully submits that independent claims 1, 6, 17, and 18 are patentable over any reasonable combination of Grollimund and Black for at least the two reasons set forth above. Claims 2-4, 7, 8, 11-16, and 20 depend variously from claims 1, 6, 17, and 18, and are patentable for at least the same reasons.

**II.** The Office Action rejected claim 5 under 35 U.S.C. § 103(a) as being unpatentable over Grollimund in view of Black, and further in view of U.S. Patent Application Publication No. 2001/0002864 to Nomura. Claim 5 depends variously from claim 1. As demonstrated above, claim 1 is patentable over Grollimund and Black. Nomura does not provide the missing teaching or suggestion. Accordingly, claim 1, and dependent claim 5, are both patentable over any reasonable combination of Grollimund, Black, and Nomura.

### **Conclusion**

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant, therefore, respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present

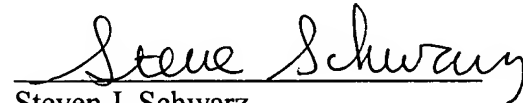
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Appl. No.: 10/500,089

application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,

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